

Message Text

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SUBJECT: NEW CZECHOSLOVAK CUSTOMS LAW

REFS: A. PRAGUE 958 (1974)

B. STATE 004205

1. A CAREFUL READING OF THE TEXT OF THE NEW CUSTOMS LAW, PLUS DISCUSSIONS WITH OFFICIALS AT CZECHOSLOVAK CHAMBER OF COMMERCE AND CUSTOMS ADMINISTRATION, HAVE PROVIDED THE EMBASSY WITH MORE DETAILS THAN WERE AVAILABLE WHEN WE FIRST REPORTED ON THE NEW LAW (REF. A.). OUR EVALUATION OF IT REMAINS UNCHANGED, HOWEVER. THE BASIC PURPOSE OF THE LAW IS TO GIVE FEDERAL MINISTRY OF FOREIGN TRADE, THROUGH ITS DEPENDENT AGENCY, THE CUSTOMS ADMINISTRATION, THE ADMINISTRATIVE MEANS TO INSURE THAT THE MINISTRY'S COMMERCIAL POLICIES ARE FAITHFULLY EXECUTED BY THE SEMI-AUTONOMOUS

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AND, APPARENTLY AT TIMES RECALCITRANT, FOREIGN TRADE

ORGANIZATIONS (FTOS). WE DO NOT EXPECT THE LAW ADVERSELY TO AFFECT U.S. COMMERCIAL INTERESTS IN CZECHOSLOVAKIA, AND IT MAY EVEN HELP THEM.

2. WE CAN ONLY CONJECTURE ABOUT WHICH FAILINGS OF THE FTOS COMPELLED THE GOVERNMENT TO TIGHTEN ITS CONTROL OVER THEM. WE KNOW, HOWEVER, THAT GOVERNMENT'S POLICY OF REDUCING GROWING DEPENDENCE ON WEST GERMANY FOR IMPORTED CAPITAL GOODS HAS BEEN FRUSTRATED BY CONTINUED FTO RELIANCE ON WEST GERMAN SUPPLIERS, IN PART BECAUSE CZECHOSLOVAK END-USERS KNOW AND SPEAK GERMAN AND THUS HAVE AN AFFINITY TO GERMAN EQUIPMENT AND PRODUCTS. THE WIDESPREAD EXISTENCE OF "SWEETHEART" CONTRACTS WHICH BENEFIT CZECH COMMERCIAL NEGOTIATORS IN WAYS OUTSIDE PALE OF LAW ALSO IS RUMORED.

3. WE SUSPECT THAT ONE OF MAIN VIOLATIONS OF MINISTRY POLICY (AND OF CS LAW) THAT THIS NEW LAW IS DESIGNED TO CORRECT IS PROLIFERATION OF OLD-FASHIONED CORRUPTION AND BRIBERY. FOR EXAMPLE, PARAGRAPHS 30 AND 31 GIVE CUSTOMS RIGHT TO IMPOUND GOODS, AND TO INSPECT PREMISES AND RECORDS OF FTO. PARAGRAPHS 96 THROUGH 101 LAY DOWN A STRICT SET OF REQUIREMENTS FOR FTOS TO PROVIDE DETAILED DOCUMENTATION TO CUSTOMS ON ALL EXPORT AND IMPORT TRANSACTIONS, AND ESTABLISHES FINES, IN SOME CASES DOUBLE THE VALUE OF THE GOODS IN QUESTION, IN OTHERS UP TO 25,000 CROWNS, IF DOCUMENTATION PROVIDED IS FALSE. PARA 9 DEALS WITH PARTICULARLY SERIOUS VIOLATIONS OF THE LAW IN FOREIGN TRADE TRANSACTIONS, AND OBLIGATES CUSTOMS TO REPORT THEM TO THE STATE PROSECUTOR.

4. IN THE PAST FEW MONTHS THERE WAS A MAJOR SCANDAL AT SKOD EXPORT, A KEY FTO THAT DEALS IN STEEL MILLS, POWER STATIONS, AND OTHER CAPITAL GOODS. MOREOVER, THERE HAS BEEN A SPATE RECENTLY OF REPORTS IN PRESS ON ECONOMIC CRIMES, ABOVE ALL CORRUPTION IN FTOS. A RELIABLE CZECH SOURCE TOLD EMBOFF A FEW DAYS AGO THAT CORRUPTION AND ECONOMIC CRIMES AGAINST STATE WERE ON THE AGENDA OF THE NOVEMBER PLENUM OF THE CENTRAL COMMITTEE, THE FIRST TIME IT HAD BEEN DISCUSSED AT THIS LEVEL.

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5. PARAGRAPHS 43 THROUGH 45 AUTHORIZE THE MINISTRY OF FOREIGN TRADE TO ENTER INTO PREFERENTIAL TRADING ARRANGEMENTS WITH OTHER COUNTRIES, AND TO RETALIATE AGAINST THOSE COUNTRIES WHICH DISCRIMINATE AGAINST CZECHOSLOVAK EXPORTS. WE UNDERSTAND THAT DUTIES OF ABOVE FIVE PER CENT ARE IMPOSED ON GOODS FROM CAPITALIST COUNTRIES WHICH GRANT MOST FAVORED NATION TREATMENT TO CZECHOSLOVAKIA. WE HAVE HEARD THAT SOME U.S. GOODS CARRY A 14 PERCENT DUTY BUT CANNOT CONFIRM THIS.

IN ANY CASE, IT SEEMS CLEAR THAT BETTER POLICY CONTROL IS THE AIM OF THIS LAW, PARTICULARLY CONTROL OVER THE FOREIGN TRADE APPARATUS. FISCAL POLICY IS HARDLY TOUCHED BY THE LAW; COMMERCIAL POLICY IS AFFECTED ONLY TO THE EXTENT THAT THE FTOS WILL HAVE TO COMPLY WITH IT.

6. GIVEN FACT THAT ACTUAL TARIFF STRUCTURE IS NOT AFFECTED BY NEW LAW, EMBASSY INCLINED TO BELIEVE CZECHS WILL NOT NOTIFY GATT. WITHOUT BETTER UNDERSTANDING OF GATT NOTIFICATION REQUIREMENTS, HOWEVER, WE HESITATE TO SPECULATE FURTHER.

7. COPIES OF LAW POUCHED TO BEWT/EEAD.
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